

STAKEHOLDER COMMENTS REGARDING DRAFT JANUARY 2021 METRO DISTRICT CHANGES WITH STAFF COMMENTS

STAKEHOLDER COMMENTS RECEIVED JANUARY 2021	
A. Comments on Public Improvements Cost Exhibit Requirement	
<p>A.1: Request to allow an administrative method to approve an update to the Engineer's Estimate or Probable Costs Exhibit in Service Plan instead of a formal service plan amendment approved by Council (ie City Manager approval) to address possible future contingencies that may come up.</p>	<p>Thornton staff response: Section V.B. already refers to the costs as "estimates" from a "preliminary" engineering survey. However, staff has added additional recommended language to Section V.B. to clarify that costs are initial estimates subject to modification and that revisions to the estimates identified in the Exhibit will not require City approval unless cost increases result in the District requesting a Service Plan Amendment to increase the Total Debt Issuance Limitation.</p>
<p>A.2: Requiring public improvements and cost estimates as an exhibit to the service plan is common, however, we recommend that language be added to the body of the service plan that acknowledges that the public improvements and costs <i>are projections</i>. Similar to the financial plan, a district needs flexibility in its ability to respond to market demands, development changes, construction cost increases, etc. We suggest revising the definition of "Public Improvements" in Article II to add the following:</p> <p style="padding-left: 40px;">"All descriptions of the public improvements to be constructed, and their related costs, are estimates only and are subject to modification as engineering, development plans, economics, the City's requirements, and construction scheduling may require. In addition, these initial cost estimates only include the public improvement portion of the costs and the total project improvement costs (including items such as dry utilities, etc.) will be significantly higher and will materially increase the overall costs. Upon approval of this Service Plan, the District will continue to develop and refine cost estimates contained herein and prepare for issuance of debt."</p>	

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B. Comments on “Resident” Definition and “Residential Districts” Definitions	
<p>B.1: Add “[any person who] <u>lives</u>” to definition of Resident as there may be situations in which someone lives there but doesn't own or rent (ie a kid living in a home owned by parents for which s/he doesn't pay rent).</p>	<p>Thornton staff response: Staff agrees with these suggestions and has modified the new recommended definition of ‘Resident’ in Service Plan Section II.</p>
<p>B.2: Consider replacing "developed property" with "a developed residential lot other than a model home"</p> <p>Developed property can be reasonably interpreted to include anybody who owns a landscaped parcel of open space or owns a partial interest in a model home. These are two popular types of real property assets that developers and builders rely on to qualify themselves to serve on metro district boards.</p>	
<p>B.3: As drafted, if there is a single tax parcel assessed residential within a large, functionally commercial district, that single tax parcel would subject the district to all limitations in the service plan applicable to “Residential Districts” (i.e., mill levy caps).</p>	<p>Thornton staff response: Although this scenario would not apply to the majority of districts in Thornton, staff acknowledges that a model service plan cannot anticipate or be wholly applicable to every circumstance. Therefore, staff has added a recommended note to Section I of the Service Plan indicating that an applicant can propose changes to the model service plan for justified unique circumstances.</p>

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C. Comments on Community Engagement Requirement (Service Plan §V.A.26)	
<p>C.1: Regarding requirement to provide written notification to residents on how to access virtual Board meeting, reads as though a post card notice has to be mailed to all residents which is very costly. Perhaps clarify that posting of such information on the District's website meets this requirement.</p>	<p>Thornton staff response: Notification of virtual board meetings on the website is acceptable to staff. Similar to HOAs, staff assumes that metro districts may have an email notification system for residents as well. If so, the recommended change will require the district to also notify residents via email.</p>
<p>C.2: Section V.A.26.b does not specify a time frame to provide written information for virtual meetings nor where such information should be posted. Additionally, providing written notice of meetings will create an additional administrative expense for special districts that already have limited budgets. Since the City is implementing a website requirement it would be more efficient and cost effective to require all special districts to post notice on that website.</p>	<p>Staff proposes a 10-day notification period, which is what the City requires for most land use applications. Staff can be flexible on this time period if stakeholders think this timeframe is not achievable and propose a reasonable alternative notification period.</p> <p>The recommended changes to Service Plan Section V.A.26 have been modified to reflect these changes.</p>
D. Comments on Service Plan Amendment Requirements (Service Plan §V.A.27)	
<p>D.1: Add "minor or" before technical to tie with language in previous sentence:</p> <p>“Changes to the Service Plan of a minor technical nature may be approved administratively by the City. The City shall determine if a change is <u>minor or</u> technical in nature.”</p>	<p>Thornton staff response: Staff agrees and has updated its recommended change by adding the word “minor” to Service Plan Section V.A.27</p>

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E. Comments on Definition of Debt	
<p>E.1: The proposed “Debt” definition will include bonds that are issued to repay developer advances. As such, please note that the size of the debt limit will need to account for this.</p>	<p>Thornton staff response: This is understood. The desire is to provide greater transparency about all of the types of financial obligations the District is required to repay. Staff is not recommending any additional changes based on these comments.</p>
<p>E.2: “Debt” now includes any bond, note debenture, contract, or any other financial obligation of the district “used to fund Public Improvements” and which is payable from, or which constitutes a lien on, ad valorem taxes or other legally available revenue of the district (Section II)</p> <ul style="list-style-type: none"> The expansion of this definition will have the practical result of applicants requesting higher debt limitations under the service plan. 	
<p>E.3: The revised definition of "Bond, Bonds or Debt" states: "Bond, Bonds or Debt: means any bond, note debenture, contract or any other financial obligation of the District, the proceeds of which are or will be used to fund Public Improvements, and which is payable in whole or in part from, or which constitutes a lien or encumbrance on, the proceeds of ad valorem property tax imposed by the District or any other lawful revenue or funds of the District." (emphasis added).</p> <p>Developer advance contracts (i.e., Operations and Capital Funding Agreements) are annual appropriation promises. As such, they do not meet the threshold of "Debt" as they are not multiple fiscal year obligations. We would appreciate the opportunity to discuss this item in more detail at the stakeholder meeting to determine the concerns the City is hoping to resolve with the addition of this language to the definition.</p>	<p>Thornton staff response: The intent is to identify all of the District’s potential financial obligations, regardless of whether they are subject to TABOR. Staff is not recommending any additional changes based on this comment.</p>

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F. Comments on Interest Rates (Service Plan §VI.B)	
<p>F.1: Section VI.B. of the proposed Model Service Plan states: "Interest on any Debt of the District, or other District obligations payable in whole or in part from revenues derived from the Debt Service Mill Levy, shall be simple per annum interest and shall not compound."</p> <p>It is extremely important to make a distinction between Debt issued to developers ("Developer Placed Debt") as opposed to Debt issued to the market or sold to a third-party purchaser ("Publicly Placed Debt"). If the City's objective is to assure that a community accomplish the financing for the finite public improvements with the lowest interest costs and least restrictive terms, that objective can be met by limiting Developer Placed Debt to accrue only simple interest and by allowing Publicly Placed Debt to accrue compounding interest.</p> <p>A more detailed explanation of this topic is being provided by underwriters in our community.</p>	<p>Thornton staff response: Regarding comments F.1-F.4: The issue intended to be addressed through these proposed changes is compounding interest on developer owned debt and subordinate debt (junior bonds). The City is aware of instances where there is a related party on both sides of the transaction as the borrower and the investor/purchaser of the subordinate debt. These bonds are only paid if pledged revenue is available, but continue to accrue compounding interest until the end of the 30-year term.</p> <p>However, staff understands the challenges and unintended consequences outlined by stakeholders about eliminating compounding interest and is therefore removing the proposal to require simple interest. Staff is keeping the proposal to decrease the maximum net effective interest rate to 12% from 18%. Staff is also recommending a change to clarify that the Maximum Debt Mill levy Imposition Term is intended to be a total timeframe of 40 years from the time of initial debt issuance, and is not to be interpreted as 40 years on a property-by-property basis.</p>

F.2: Regarding simple per annum interest, this change would represent a significant deviation from what has become the standard in the state for Metropolitan District financings. It would also significantly limit early-stage borrowing options for districts as well as increase borrowing costs to those districts that could borrow in compliance with this clause.

The underlying challenge this presents is that it eliminates an investor's ability to maintain its rate of return at the rate on the bonds if the issuer falls behind on debt service. For instance, if debt carries a 4% stated interest rate, but the issuer falls behind on payments (and then ultimately catches up), without compounding, the investor would face an ultimate rate of return on that investment that can be well below the 4% rate on the debt. This is because when issuers get behind on payments, principal is outstanding for a longer period of time, but with simple interest, the same amount of interest is received in total. Compound interest would pay interest on the unpaid interest, bringing the total return back up to the stated rate on the debt.

This is generally not a significant issue for investment grade borrowers, which encompasses the majority of municipal issuers in the country. However, in Colorado, where Metropolitan Districts frequently are used as a tool to build public infrastructure ahead of development and are not initially investment grade rated, it can be a significant factor. For early stage Metropolitan District debt, we would certainly see an increase in the interest rate the investors would require on simple interest debt in order to take the risk that if the bonds are not paid current, their return would suffer. We have seen very few issuances of this type to date, so it is difficult to accurately measure how much this penalty would cost taxpayers, but there would certainly be a premium.

Additionally, some districts need to use structures other than current interest bonds to borrow when infrastructure is needed. Convertible Capital Appreciation Bond are one such approach where interest accrues and compounds on the initially borrowed amount until the bonds convert to current interest bonds at a date in the future when the district is projected to be able to afford those payments. We have not seen an issuance like this marketed without compound interest and believe that it would be highly challenging and would require significantly higher interest rates to do so if simple interest were mandated.

None of this is to say that bonds placed with developers must have interest that compounds. Simple interest bonds to developers, while not necessarily desirable, does not pose the significant issues that it does for bonds sold to third party investors and we don't have objections to that change.

A very small number of municipalities require simple interest on bonds sold to the marketplace. This would impact the use of the Metropolitan District tool as an early stage financing mechanism and may slow development within the City because of the widespread use of the tool.

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F.3: Maximum net interest rate on Debt or other obligations payable in whole or in part from the Debt mill levy is not to exceed 12% with simple per annum interest (Section VI.B.) A change to simple interest, rather than compounding, is not the standard for current special district financing and could have myriad consequences on the ability of districts to finance public improvements.	
F.4: Webinar comment: Locking districts into simple interest rates is not wise. Compounding interest is an important financial tool. While some districts have effective interest rates on debt over 40% which creates significant debt loads, there are other solutions to these debt problems.	
F.5: Suggested change: “The maximum net effective interest rate on any District Debt is not expected to <u>shall not</u> exceed twelve percent (12%).”	Thornton staff response: Staff agrees with this suggestion and has updated its recommended change to Service Plan Section VI.B to “shall not.”
F.6: How are the following common financing terms affected by the simple interest requirement? (1) accreted interest and (2) capitalized interest. Underwriters will probably want clarity on this before structuring new debt.	Thornton staff response: Staff has removed the recommended language requiring simple interest.
F.7: Consider removing the term “proposed” from sentence “ proposed maximum underwriting discount will be five percent (5%).”	Thornton staff response: Staff agrees with this suggestion and has removed the term “proposed” from the recommended change to Service Plan Section VI.B

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G. Comments on Privately Placed Debt Limitation (Service Plan §V.A.10)	
<p>G.1: Definition should explicitly exclude loans from financial institutions registered with the Colorado Division of Banking. No benefit accrued to a District from obtaining an external certification of an interest rate on a loan issued by a "private" bank such as a credit union that is registered with the Colorado Division of banking.</p> <p>The true risk that should be mitigated by this section is non-financial institutions such as land developers loaning money to the district (usually controlled by the land developer) at 40%+ interest rates (i.e. Cundall Farms Metro, Amber Creek Metro, Lewis Pointe Metro, etc)</p>	<p>Thornton staff response: Staff has made note of this comment, but is not recommending any changes at this time. The intent is to ensure the District debt is issued with a reasonable interest rate and at prevailing interest rates.</p>
H. Comments on Debt Mill Levy (Service Plan §VI.B)	
<p>H.1: Recommend the base assessment rate remain at the 7.96% ratio to maintain consistency among districts throughout the City for the Gallagher adjustment.</p>	<p>Thornton staff response: Staff acknowledges the desire to keep the Gallagher adjustment from 2004, however staff finds that indicating 50 mills in new service plans would therefore be misleading to home buyers. Staff is not recommending any changes based on these comments.</p>
<p>H.2: Regarding change to allow mill levy adjustment to changes to the method of calculating assess valuation as of the date of service plan approval, rather than January 1, 2004:</p> <p>This adjustment is currently allowed for any changes occurring after January 1, 2004. The change to allowing this adjustment to changes occurring after the date of service plan approval will result in current special districts that have already been approved having a higher Maximum Debt Mill Levy than special districts approved under this new model service plan. This will provide a competitive disadvantage to the developments that have special districts approved under the proposed new model service plan.</p>	
<p>H.3: Section VI.B. says "...other District obligations payable in whole or in part from revenues derived from the Debt Service Mill Levy..." "Debt Service Mill Levy" is not defined, the intent may have been to use "Maximum Debt Mill Levy".</p>	<p>Thornton staff response: Staff has recommended removing the sentence that refers to the "Debt Service Mill Levy". Therefore this comment is no longer relevant.</p>

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I. Comments on O/M and Operating Mill Levy (Service Plan § VI.I) – See also Fee Limitations	
<p>I.1: Regarding expenses eligible to be paid with Operating Mill Levy, consider adding holiday lights. Those are huge with residential districts. What about social events often hosted by residential districts?</p>	<p>Thornton staff response: Section VI.I refers to the eligible expenses as examples and indicates that the expenses are not limited to those listed. Because there are many expenses that could be eligible, staff prefers to not list every potential expense. If necessary, an applicant can request a modification to the model service plan that identifies additional specific expenses when submitting a service plan to the City. Staff is not recommending any additional changes here.</p>
<p>I.2: Regarding expenses eligible to be paid with Operating Mill Levy, add “retention” to “maintenance of <u>retention or</u> detention ponds.</p>	<p>Thornton staff response: Staff agrees and is recommending adding “retention” to Service Plan Section VI.I.</p>
<p>I.3: Regarding ability to increase Operating Mill Levy higher than 10 mills, what happens if residents are not interested in serving on the Board? There are a lot of residential districts, even those which are fully built out and which have amenities, where it is impossible to get residents interested in serving on the Board. Is there any consideration for those instances other than a formal service plan amendment which is costly?</p>	<p>Thornton staff response: In the event that a District cannot obtain a resident-majority board, the proposed changes provide the option for the District to request a Service Plan Amendment for a higher Operating Mill Levy with demonstrable justification. The District may request this at any time with sufficient justification for the mill levy increase.</p> <p>Staff is not recommending any changes based on this comment.</p>

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<p>I.4: Section I.C, change from:</p> <p>“Ongoing operation and maintenance services are expected to be repaid by taxes imposed through a mill levy no higher than the Maximum Operating Mill Levy, and/or repaid by Fees as limited by Section V.A.18.” to:</p> <p>“Ongoing operation and maintenance services are expected to be funded by taxes imposed through a mill levy no higher than the Maximum Operating Mill Levy, and/or funded by Fees as limited by Section V.A.18.”</p>	<p>Thornton staff response:</p> <p>Staff agrees with this suggestion and is recommending a change to the wording in Section I.C. to “funded”.</p>
<p>I.5: Having flexibility on the imposition of an operations and maintenance mill levy is essential for several significant reasons, including, but not limited to, the following:</p> <ul style="list-style-type: none"> a) Metropolitan districts have specific operations and maintenance needs, the dollar amount for which will be determined as the development progresses, and for which a limited operations and maintenance mill levy would limit the Board from performing. b) Typically, following organization, metropolitan districts conduct reserve studies for the operations and maintenance services to be provided by the metropolitan district in order for the metropolitan district to properly plan for those costs and determine the necessary operations and maintenance mill levy. c) Having the ability to impose an operations and maintenance mill levy in an amount to fund the necessary operations and maintenance costs provides security that a metropolitan district's operations and maintenance needs can be addressed in a timely and cost-efficient manner. d) Flexibility allows for the Board of a metropolitan district to determine if they wish to fund the operations and maintenance needs through the imposition of an operations and maintenance mill levy, through fees imposed by the metropolitan district, or a combination thereof. 	<p>Thornton staff response:</p> <p>Staff is proposing various options for Districts to increase the Operating Mill Levy above 10 mills if warranted, which staff believes provides sufficient flexibility. Staff is not recommending any changes based on this comment.</p>

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- e) It is essential that metropolitan districts have the ability to impose the necessary operations and maintenance mill levy to provide ongoing operations, maintenance, repair, and replacement of those public improvements for which the metropolitan district has responsibility. If the funds to operate and maintain these improvements are funded through an operations and maintenance mill levy the metropolitan district has security in knowing the funds will be received. If a homeowner fails to pay his/her taxes, a tax lien can be placed on the property and the tax lien will be sold ensuring the metropolitan district receives the revenue. This is not the case if a metropolitan district is limited in its operations and maintenance mill levy and must therefore heavily rely on fee revenue.
- f) It is important that the property be maintained to the City's, the metropolitan district's, and other applicable entities/governance standards and that the Board of a metropolitan district is not restricted in the maintenance of the improvements.
- g) The operations and maintenance mill levy is determined annually by the Board at a public hearing and a metropolitan district cannot impose a mill levy for the following year (i.e., 2021 mill levy for collection in 2022) in an amount that would exceed the revenue necessary to fund the budgeted operations and maintenance expenses, and any corresponding reserve fund, for that collection year.

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<p><u>I.6:</u> Limiting the operations and maintenance mill levy to 10.000 mills, as proposed under the revised Model Service Plan, will result in a metropolitan district not having adequate funding to operate and maintain public improvements. The proposed 10.000 mills will most likely only provide enough revenue to operate the basic statutory functions of a metropolitan district.</p> <p>While the language in the proposed Model Service Plan allows for removal of the Maximum Operating Mill Levy restriction with City approval at such time as the Board is comprised of a resident majority, this process does not allow for full transparency of the property taxes and fees necessary to fund the operations and maintenance responsibilities and is contrary to the transparency and consumer protections that would be provided with disclosure of such information at the time of organization.</p>	<p>Thornton staff response:</p> <p>Staff is proposing various options for the District to increase the Operating Mill Levy above 10 mills if warranted, which staff believes provides sufficient flexibility. Staff is not recommending any changes based on this comment. Regarding the second paragraph, changes allow for the potential of a higher mill levy with Council approval, not just when residents constitute a majority of the Board.</p>
<p><u>I.7:</u> Metropolitan District Operating in Lieu of an HOA. As provided by state statute, it has become common for metropolitan districts to operate in lieu of homeowner associations (an "HOA"). Limiting the operating mill levy of a metropolitan district and, at the same time, limiting the ability of a metropolitan district to elect to supplement with the imposition of fees for operations and maintenance purposes essentially necessitates the need for an HOA in addition to a metropolitan district. This results in two governance structures both of which incur costs which are passed through to the residents resulting in increased costs to the residents. The multiple governance structure does not provide for the most efficient and transparent funding for such costs and services. In addition, the increased costs to the residents of having a multiple governance structure may impede development, especially of attached product, in the City.</p> <p>There are many benefits to having a metropolitan district operate in lieu of an HOA, including, but not limited to, the following:</p>	<p>Thornton staff response:</p> <p>Staff is proposing various options for the District to increase the Operating Mill Levy above 10 mills if warranted, which staff believes provides sufficient flexibility. Staff understands that alternatively an HOA may be formed, where residents would sit on the HOA board. Staff is not recommending any changes based on this comment.</p>

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- a) Cost Efficiency. Metropolitan districts fund their operations from revenues generated from real property taxes while HOAs assess dues and collect them from property owners. A metropolitan district can, therefore, operate more efficiently than an HOA as the collection of taxes is significantly more effective than separately billing individual homeowners, and dealing with the collection efforts.
- b) Tax Deduction. In general, taxes paid to a metropolitan district are deductible from income taxes, while HOA dues are not.
- c) Homeowner Savings. Out of pocket expenses for the residents are generally significantly less when paid through ad valorem tax as opposed to HOA dues. In addition, when a metropolitan district operates in lieu of an HOA, residents are not subject to two governance structures each of which incur costs payable by the residents.
- d) Transparency. A metropolitan district is subject to various regulatory requirements that an HOA is not, such as:
 - (i) All metropolitan district records must be made available to the public in conformance with the "Open Records Act", Section 24-72-201, C.R.S.;
 - (ii) Public Meeting Laws as required by Section 24-6-402(2)(b), which require that all meetings of the Board of Directors at which public business is discussed or formal Board action may be taken must be open to the public;
 - (iii) Code of Ethics applicable to all local governmental officials with additional standards imposed by Title 32, C.R.S. the ("Special District Act");
 - (iv) The Taxpayer's Bill of Rights ("TABOR"), which prohibits metropolitan districts from incurring multiple fiscal year financial obligations without voter approval, and also imposes tax, debt, revenue, and spending limitations;

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<ul style="list-style-type: none"> (v) All metropolitan districts are subject to the Colorado Local Government Election Code and the Uniform Election Code of 1992; (vi) Metropolitan districts must have an audit, or an audit exemption, performed annually; and (vii) Metropolitan districts must file annual budgets, which budgets must be considered after the conduct of a noticed public hearing. 	
<p><u>I.8:</u> A district may not impose the Operating Mill Levy until the district has an Approved Conceptual Site Plan and a City IGA has been executed (Section VI.I.)</p> <ul style="list-style-type: none"> • This change would hamstring the special district's ability to utilize the already limited Operating Mill Levy to cover some the general cost of operating the special district in the early stages of development and leads to the need for increased advances from the Developer which are then expected to be repaid with interest, thus, costing the special district more over time. 	<p>Thornton staff response:</p> <p>Staff has made note of this. If there are extenuating circumstances that require a district to request an alternative, staff can work with the applicant to determine an appropriate solution, if warranted. Staff has recommended adding a note to Service Plan Section I.A to address deviations from the model service plan.</p>
<p><u>I.9:</u> Regarding Maximum Operating Mill Levy of 10 mills restrictions:</p> <ul style="list-style-type: none"> • The practical effect of this very limited Maximum Operating Mill Levy combined with the limitation of fees (discussed below), is that developments will have very limited amenities or will employ the use of HOAs (and their attendant fee authorizations) to cover the cost of the amenities that the special district cannot fund. The use of HOAs for this purpose causes a proliferation of entities that homeowners have to interface with which leads to increased homeowner confusion and frustration and creates administrative redundancies and inefficiencies in operating both a special district and an HOA, the cost of which is then bore by the homeowners. 	<p>Thornton staff response:</p> <p>Staff is proposing various options for the District to increase the Operating Mill Levy above 10 mills if warranted, which staff believes provides sufficient flexibility. Staff understands that alternatively an HOA may be formed, where residents would sit on the HOA board. Staff is not recommending any changes based on this comment.</p>

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<p>I.10: Section V.A. says “The District shall not be authorized to operate and maintain any part of all the Public Improvements except as described in Section VI.I...” However, Section VI.I. does not discuss any authorization of the District to operate and maintain Public Improvements, only the District’s authorization to impose the Operating Mill Levy. The only relevant language in Section VI.I. says, “the District will require operating funds for administration and to plan and cause the Public Improvements to be constructed and maintained.”</p>	<p>Thornton staff response: Service Plan Section VI.I lists a number of services and Public Improvements that the District can operate and maintain. Staff is recommending the addition of more specificity to Section VA.I to clarify. Additionally, the City has, and will continue to, require that specific Public Improvements not specified in the Service Plan be addressed in the IGA.</p>
<p>I.11: Consider language that allows an aggregate mill levy of 60 mills rather than specifying a 10 mill limit an Operating Mill Levy. Therefore, if a district does not use all 50 mills for debt, they can apply it towards operations instead. Example of language used in Mead:</p> <p>The “Maximum Operating Mill Levy” shall be the maximum mill levy the District is permitted to impose upon the taxable property within the District for payment of administration, operation and maintenance expenses of the District. The Maximum Operations Mill Levy shall be sixty (60) mills, as adjusted by the Gallagher Amendment Adjustment; provided, however, that except as set forth Section VI.C.2, above, the maximum aggregate mill levy that the District is permitted to impose for Debt and operations, combined, shall not exceed sixty (60) mills, as adjusted by the Gallagher Amendment Adjustment (the “Maximum Aggregate Mill Levy”).</p>	<p>Thornton staff response: Staff considered this alternative but is not recommending a change to an aggregate mill levy.</p>
J. Comments on Fee Limitations (Service Plan §V.A.18)	
<p>J.1: Must some or all Taxable Property in the District be owned or occupied by an End User before a District cannot impose and collect Fees?</p>	<p>Thornton staff response: Staff will contact commenter to further discuss intent of comment.</p>
<p>J.2: Consider revising the sentence to place restriction on a lot-by-lot basis as follows: "The District may impose and collect Fees <u>on Taxable Property</u> as a source of revenue for repayment of Debt, capital costs, and/or for operations and maintenance until <u>such</u> Taxable Property is owned or occupied by an End User subsequent to the issuance of a Certificate of Occupancy for said Taxable Property."</p>	<p>Thornton staff response: Staff will contact commenter to further discuss intent of comment. Staff is not recommending any changes based on this comment.</p>

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<p>J.3: The ability to impose penalties and charges is a necessary tool for Districts to ensure homeowner compliance, particularly when the District is functioning as an owner association. In addition, the ability to impose penalties or fines for delinquent payments of fees is a strong deterrent. We therefore recommend that the following language not be removed from VI.A and VI.E: “rates, tolls, penalties, or charges as provided in Section 32-1-1001(1), C.R.S., as amended from time to time”</p>	<p>Thornton staff response: Staff’s intent with recommending removal of this sentence was to separate limitations on fees from these other charges, rather than limit Districts’ ability to utilize these revenue sources under appropriate circumstances. In order to avoid confusion, staff is no longer recommending removal of this sentence, but is recommending removal of the word “fees,” which is addressed separately in this section of the Service Plan.</p>
<p>J.4: The most efficient and transparent method to fund the operations and maintenance costs of a metropolitan district is to have the flexibility to fund the majority, if not all, of the operations and maintenance costs through the imposition of property taxes (an operations and maintenance mill levy).</p> <p>If it is determined that additional funds are necessary to supplement the revenue received from the imposition of an operations and maintenance mill levy, it is essential that such fees be disclosed to prospective purchasers from the onset, with the understanding that such fees will need to adjust over time to take care of the finite improvements for which a metropolitan district is responsible to own, operate, and maintain.</p> <p>Limiting both the operations and maintenance mill levy as well as limiting the ability of a metropolitan district to impose fees for such purposes would have a devastating effect on the ability of a metropolitan district to perform the operations and maintenance services.</p>	<p>Thornton staff response: Staff’s proposed model service plan language allows Districts to request a higher Operating Mill Levy with justification. If there are extenuating circumstances that require a district to request fees, staff can work with the applicant to determine an appropriate a solution, if warranted. Staff is recommending adding a note to Service Plan Section I.A to address deviations from the model service plan.</p>

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<p>J.5: Section V.A.18 of the revised model service plan states: "No Fee related to funding operation and maintenance costs shall be imposed upon or collected from Taxable Property owned or occupied by an End User subsequent to the issuance of a Certificate of Occupancy for said Taxable Property unless and until the majority of the Board are Residents, and a majority of the Board has voted in favor of imposing and collecting Fees for the purpose of funding operation and maintenance costs of the District."</p> <p>Transparency for future and current homeowners and residents within a metropolitan district is paramount. Having the ability to determine the fees necessary, if any, to support the operations and maintenance needs of a metropolitan district from the onset is paramount.</p>	<p>Thornton staff response: Staff has made note of this. Staff is aware that a number of jurisdictions prohibit fees imposed on End Users. The potential for future fees, whether imposed by a resident-controlled Board or under circumstances approved through a Service Plan Amendment can be identified in the Disclosure form for homebuyers.</p> <p>If there are extenuating circumstances that require a district to request an alternative, staff can work with the applicant to determine an appropriate a solution, if warranted. Staff is recommending adding a note to Service Plan Section I.A to address deviations from the model service plan.</p>
<p>J.6: Regarding O&M fees not to be imposed on an End User subsequent to a Certificate of Occupancy unless and until there is a majority resident-controlled board and the majority of the board has voted in favor of imposing fees (Section V.A.18) - See comment I.9 above regarding the interplay between the limitation of the Maximum Operating Mill Levy and the fees.</p>	<p>Thornton staff response: Staff has made note of this. Staff is aware that a number of jurisdictions prohibit fees imposed on End Users.</p>
K. Comments on Disclosure Requirements (Service Plan §IX)	
<p>K.1: Per Section V.A. 18, Fees are limited to being imposed before the Residents and COs so is it necessary to require the Disclosure Notice to identify District Fees?</p>	<p>Thornton staff response: For transparency, staff is recommending that a statement about the potential for future fees, whether imposed by a resident-controlled Board or under circumstances approved through a Service Plan Amendment should be identified in the Disclosure Notice.</p>

STAKEHOLDER COMMENTS RECEIVED JANUARY 2021	
<p>K.2: The disclosure form includes language that the “Mill Levy may fluctuate based on changes to residential rates. Despite the mill levy fluctuation, the amount of taxes paid by the homeowner should substantially stay the same from year to year.” This statement is not accurate, as a District typically has the ability, subject to voter approval, to increase or decrease the O&M mill levy depending on financing needs, provided the O&M mill levy does not exceed the maximum O&M mill levy. As a result, homeowners may see the amount of taxes owed change not only as a result of changes to residential rates.</p>	<p>Thornton staff response: Staff deleted the statement from the recommended Disclosure Notice.</p>
<p>K.3: The Model Service Plan does not specify, though it is implied, whether the special district is responsible for ensuring that home buyers acknowledge the disclosures at time of contract. The concern with making this a responsibility of the special district is that the special district is not involved in the home buying/selling transaction and therefore cannot effectively comply with this requirement. Other jurisdictions have required that the special district provide the information to developers within the special district and/or post the information on its website; these requirements are more practical for the special district to comply with.</p>	<p>Thornton staff response: Staff is recommending adding an additional sentence to Service Plan Section IX that states that the District will use reasonable efforts and due diligence to cause each developer and home builder to be responsible for obtaining acknowledgement.</p>
L. Comments on Approved Conceptual Site Plan Requirement	
<p>L.1: In the summary of metro district changes, it states that City Council approval of a service plan amendment and an IGA required to identify debt and mill levy/fee authorizations once the CSP is approved. However, we do not see this language in the proposed model service plan. Will this proposed change be added to the proposed model service plan?</p>	<p>Thornton staff response: Staff is recommending adding a note in Service Plan Section I.A. indicating that the service plan requires modification for projects without approved CSPs. The specific aspects requiring modification are noted.</p>

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<p><u>L.2:</u> Regarding the proposed change to the city code that would require a Conceptual Site Plan be approved prior to the imposition of any mill levy or fees:</p> <ul style="list-style-type: none"> In addition to the concerns noted above relative to the Operating Mill Levy, this would inhibit the ability of some special districts to issue early-stage debt and would force developers to find alternative funding sources. These alternative funding sources will undoubtedly be at a higher interest rate and ultimately have an adverse impact on the price of homes in the City. Perhaps a more sustainable alternative would be to require that the property need to be zoned prior to the imposition of any mill levy or fee. This would allow the bond market to determine the proper time to issue early state debt. 	<p>Thornton staff response: The CSP identifies the type of development and necessary infrastructure improvements. Zoning does not identify what infrastructure improvements are needed. If there are extenuating circumstances, an applicant can request modified language to the model service plan to be considered by the City. Staff is recommending adding a note to Section I of the Service Plan indicating that an applicant can propose changes to the model service plan for justified unique circumstances.</p>
M. Miscellaneous Stakeholder Comments	
<p><u>M.1:</u> Our comments are focused on the understanding that public improvements financed, owned, operated, and maintained by a metropolitan district are finite as they are only those public improvements identified in a corresponding Approved Conceptual Site Plan (as defined in the Model Service Plan), and not those that are to be owned, operated, and maintained by the City or other appropriate jurisdiction.</p> <p>As such, upon identification of such metropolitan district responsibilities, the goal of a metropolitan district is to seek the most efficient and transparent method to finance the public improvements and to fund the related operation and maintenance costs.</p>	<p>Thornton staff response: These comments have been noted and taken into consideration.</p>
<p><u>M.2:</u> We strongly encourage the City Council to consider the implications of the proposed changes to its regulations applicable to special districts and their impact on the future residential development within the City. We also hope that the Council will consider offering an opportunity for stakeholder engagement on this important issue before any final decisions are made.</p>	<p>Thornton staff response: These comments have been noted and taken into consideration.</p>

STAKEHOLDER COMMENTS RECEIVED JANUARY 2021	
<p>M.3: Webinar comment: Consider City Code change that prevents master/slave districts so that homeowners aren't prevented from sitting on the board that controls financial decisions.</p>	<p>Thornton staff response: Staff is considering whether to recommend the addition of a statement to the City Code that discourages these arrangements for the majority of developments. There may be unique circumstances for very large, complex projects where such an arrangement may still be considered with negotiated restrictions.</p>
<p>M.4: Webinar comment: How will timing of proposed metro district legislation at state level impact city changes?</p>	<p>Thornton staff response: Staff is looking into proposed legislation and will inform Council of the potential legislation. Staff does not have information on the timing of the legislation yet.</p>